

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

AIR-CONDITIONING, HEATING,  
AND REFRIGERATION  
INSTITUTE, et al.,

Petitioners,

v.

UNITED STATES  
ENVIRONMENTAL PROTECTION  
AGENCY, et al.,

Respondents.

No. 21-1082  
(c/w Nos. 21-1196 &  
22-1062)

**UNOPPOSED MOTION FOR ABEYANCE**

Respondents, the United States Environmental Protection Agency and Michael Regan, in his official capacity as Administrator of the United States Environmental Protection Agency (collectively “EPA”), move this Court to hold these consolidated cases in abeyance for an additional three months (through September 18, 2024), as EPA progresses toward a relevant final agency action.

EPA has conferred with Petitioners, the Air-Conditioning, Heating, and Refrigeration Institute, the Association of Home Appliance Manufacturers, the Consumer Technology Association, the National Association of Manufacturers, and the National Electrical Manufacturers Association. This motion is unopposed.

In late 2023, EPA signed a proposed rulemaking under the Toxic Substances Control Act (“TSCA”), 15 U.S.C. §§ 2601 et seq., with respect to PIP (3:1), i.e., phenol, isopropylated phosphate (3:1). *See* 88 Fed. Reg. 82287 (Nov. 24, 2023). Public comments were due January 8, 2024. *Id.* at 82287. Holding these cases in abeyance would serve the interest of judicial economy because EPA’s final action respecting the proposed rule could obviate the need for further proceedings here or refine the questions presented.

Thus, EPA requests, for good cause shown, and without opposition from any party, that the Court hold these consolidated actions in abeyance through September 18, 2024, as the agency progresses toward a final agency action under TSCA regarding PIP (3:1). Prior to that date, the parties will meet and confer and file motion(s) to govern or other appropriate motion(s), which may include a renewed motion for abeyance until EPA takes final action.

Respectfully submitted,

TODD KIM  
Assistant Attorney General

Dated: June 14, 2024

/s/ *Andrew J. Doyle* \_\_\_\_\_  
ANDREW J. DOYLE  
Attorney  
United States Department of Justice  
Environment & Natural Resources Div.  
San Francisco Field Office  
450 Golden Gate Avenue, Room 07-6714  
San Francisco, CA 94102  
(202) 532-3156 (mobile)

andrew.doyle@usdoj.gov

Attorney for Respondents

### **CERTIFICATE OF COMPLIANCE**

This motion complies with the word limit imposed by Fed. R. App. P. 27(d) because it contains no more than 383 words. In addition, the motion has been prepared in a proportionally spaced typeface using Word 2013 in Times Roman Number 14.

\_\_\_\_/s/ *Andrew J. Doyle*\_\_\_\_\_